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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,950	03/24/2000	David G Stork	074451.P0118	1960 -

7590 10/01/2003

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EXAMINER

BOOKER, KELVIN E

ART UNIT PAPER NUMBER

2121

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/534,950

Applicant(s)

STORK, DAVID G

Examiner

Kelvin E Booker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1, 12 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-11, 13-18 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Detailed Office Action*.

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The Request for Continued Examination (RCE) under 37 CFR 1.114, filed on July 7, 2003 based on parent Application No. 09/481,953 is acceptable, and a RCE has been established. An action on the RCE follows.

### ***Response to Amendment***

2. In Amendment "C", filed July 7, 2003 (see paper no. 12), the following changes were initiated:

- A. claims 1, 12 and 20 have been canceled;
- B. claims 2, 4, 10, 13, 14, 17, 19, 21 and 22 have been amended; and
- C. claims 23-25 have been added.

Claims 2-11, 13-19 and 21-25 are presented for further examination.

### ***Claim Objections***

3. Claims 5, 10, 15-17, and 19 are objected to because of the following informalities:

- A. Claim 5, line 2, delete ",", and insert -- : --;
- B. Claim 5, line 4, after "process;" insert – and--;
- C. Claim 10, line 5, delete "e";
- D. Claim 15, line 5, delete "and";
- E. Claim 16, line 4, after "system;" insert – and--;

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F. Claim 17, line 5, after “system;” insert – and--; and

G. Claim 19, line 4, delete “and”.

Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claim 19** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 19 is directed at a *computer data signal embodied in a carrier wave*. Abstract ideas (see Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759) or the mere manipulation of abstract ideas (see Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457-58) are not patentable.

As disclosed, independent claim 19 focuses on nonfunctional descriptive material, which is inclusive of the mere arrangement of data without engaging functionality when employed as a computer component. Claiming nonfunctional descriptive material merely recorded or residing on a computer-readable medium is deemed non-statutory because it fails to present functionality to facilitate practical application requirements (see MPEP 2106(IV)(B)(1)).

***Allowable Subject Matter***

6. **Claims 2-11,13-18 and 21-25** are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

the cited prior art fails to explicitly teach of a means and method for training a system, whereby a process is employed to train a machine learning system by presenting *non-expert internet users* (e.g., *netizens*) with logic facilitated multiple choice queries, from which the system uses responses entered by the *netizens* to continually update and refine the knowledge generated queries, and subsequently continuing the build of a further refined and larger knowledge base.

#### ***Conclusion***

8. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- A. Hazlehurst et al., U.S. Patent No. 6,289,353;
- B. Barnhill, U.S. Patent No. 6,128,608;
- C. Barnhill, U.S. Patent No. 6,427,141;
- D. Barnhill, U.S. Patent Application Publication No. 2003/0023571;
- E. Catlett et al., U.S. Patent No. 5,671,333;
- F. Lewis, U.S. Patent No. 5,675,710;
- G. Pham et al., U.S. Patent No. 5,970,482;
- H. Francone et al., U.S. Patent No. 5,946,673;
- I. Francone et al., U.S. Patent No. 6,493,686;
- J. Hekmatpour, U.S. Patent No. 5,806,056;

K. Diamond, U.S. Patent No. 6,269,368; and

L. Beers et al., "An Intelligent Hierarchical Decision Architecture for Operational Test and Evaluation".

9. An inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin Booker whose telephone number is (703) 308-4088. The examiner can normally be reached on Monday-Friday from 7:00 AM-5:30 PM EST.

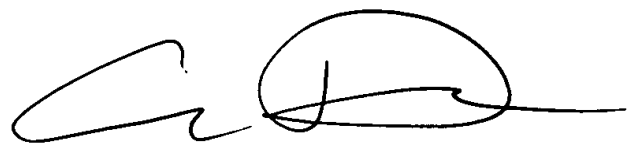
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri, can be reached on (703) 305-0282. The fax number for the organization where this application or proceeding is assigned is (703) 746-7239.

An inquiry of a general nature or relating to the status of this application proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

**K.E.B.**

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**September 17, 2003**

A handwritten signature in black ink, appearing to read 'G. B. Davis', with a large, stylized loop at the end.

**GEORGE B. DAVIS  
PRIMARY EXAMINER**